

SUMMARY

Storm Water Fee Task Force

January 15, 2009

9:00 AM

Council Chambers-2nd Floor-Government Center

Committee members in attendance: Council Members Linda Gorton (Chair), Tom Blues, Kevin Stinnett, and County Clerk Don Blevins.

LFUCG staff in attendance: Ed Gardner, Bill O'Mara, Cheryl Taylor, Charlie Martin, Darryl Bennett, Paul Schoninger, Scott Seymour, Julie Mantrom, and Candice Deininger.

Guests in attendance: John Cobb, William Smith, Chad Harpole, Rena Wiseman, Andrew Stoeckinger, Michelle Ku, Sonny Saylor, Knox VanNagell, Scott Southall, Van Meter Pettit, Doug Noel, Richard Walker, Mary Wright, Jeff England, and John-Mark Hack.

I.

Chairwoman Gorton called the meeting to order at 9:03 AM.

CM Gorton asked Ed Gardner and Bill O'Mara to come to the main table.

CM Gorton thanked Council Administrator Rebecca Langston and Paul Schoninger for staffing the next 2 meetings.

CM Gorton asked the public to sign in on the sign-in sheet and place their email address on it in order to receive the summary and future agendas. CM Gorton stated that we will go through the agenda and then have comments and questions. CM Gorton also thanked Stoll Keen & Ogden for a letter that was sent to the committee.

Don Blevins asked if we have a layout for what for what will be discussed at the meetings and if it has been publicized yet.

CM Gorton replied that we are going meeting by meeting. We can do the projected tentative agenda and that might help people.

Mr. Blevins stated that that will be a good idea because some people are interested in certain programs and it has to be tentative.

CM Gorton asked if they all could sit down after the meeting and look at what was discussed and then could put out a projected schedule. Minutes will be on the web through the Council page.

Charlie Martin asked if anything directs the citizens to the Council page. Mr. Martin was told to ask Comm. Rama Dhuwaraha if a link could be placed on the Environmental Quality page.

CM Gorton said that she spoke with Comm. Rama about getting a link on the front page of the homepage.

CM Gorton asked the participants to take a look at the 2 things she passed out. All comments from citizens can be interjected at the next meeting.

II.

CM Gorton asked if there were any corrections to the minutes from the January 8, 2009 meeting.

Mr. Martin stated that his comments are editorial and he will give them to Melynda later.

CM Blues **MOVED** to accept the minutes as corrected. Don Blevins **SECONDED** the motion. The corrected minutes were **ACCEPTED** by unanimous vote.

III.

CM Gorton stated that at the end of the last meeting, we discussed fee v. tax. We need to discuss the Enterprise Fee Fund.

Ed Gardner stated that section 16-406 in the current draft relates to revenue from proposed fee mirrors KRS 91A-530 which provides for city authorities to impose a user fee. Since we are an urban county government, we may have other innate authorities to do the user fee in, over, and above that; but certainly that will provide authority for us to do a user fee of any type that fits the criteria; which this does and it provides the language that is at the end of that which says 1. it should be placed in a special revenue fund and 2. it will be administered by the county government accounting. Bill (O'Mara) and I have spoken, a large part boils down to an accounting question-how is it reflected in our reports of how the funds will be handled. The bottom line is, the idea of the user fee is you pay for the use and the fees that are collected are to recoup the costs. It is intended to be, and always has been, segregated and whether it gets called, ultimately in our reports, an enterprise fund or special revenue fund depends on how it is actually finalized.

Bill O'Mara interjected that from his perspective, the significant thing is this is segregated and dedicated funds. Within a GAP definition, is it a special revenue fund or enterprise fund, something that will have to wait until the final design is complete and what is the scope of the use of these funds and that will drive by GAP whether it is special revenue or enterprise and both are dedicated and segregated funds.

CM Gorton stated that from our (committee) perspective and the citizens', it doesn't really matter which of these it is. The reason she wanted it discussed is to be sure, important to be sure, the money is going into a dedicated fund and NOT the general fund to be used for something else.

Mr. Gardner said that from the beginning of the discussion the thought was to create the fee, collect the fee and then use the monies for stormwater related expenses.

Mr. Blevins asked (of Mr. Gardner) if it was his opinion that section 406 accomplished that.

Mr. Gardner stated that yes it does.

Mr. Blevins said that the main reason for the discussion today is to say it aloud. Mr. Blevins **MOVED** that we, today as a task force, adopt that we want a segregated and dedicated fund, a system to be determined later, the actual accounting that is the intent of what we are trying to do. CM Stinnett **SECONDED** the motion. CM Gorton restated the motion: Revenues be in a segregated and dedicated fund for stormwater expenses. The motion **PASSED** unanimously.

IV.

Doug Noel, AMEC, introduced himself and began the discussion on Equivalent Runoff Unit (ERU) Approach Validation. The discussion content was 1. Rate Methods-ways to allocate costs of service to different rate payers and come up with the ERU type of approach; 2. Residential Rate Tiers-options in providing some equity in the ERU rate methodology; and 3. Rate Comparisons.

ERUs are based on simple hydrology under natural conditions under developmental conditions a lot of different processes-infiltration, vapor-transportation=more vegetation and less surface runoff as you start to urbanize an area, it is built up and you interfere with those processes when there is no longer much vegetation and there is no longer much opportunity for infiltration to generate more runoff more quickly. There is a very direct relationship between development runoff and also as an indicator of development imperviousness. In the hydrology, just about in all Engineering text books, you find impervious or some surrogate for imperviousness that is used for the impacts of developments for determining greater runoff and volume runoff and quality. Most, if not all, stormwater utility fees are setup based on some measurement of imperviousness.

There are multiple ways to address fee calculations. Straightway Imperviousness-measures every property, is expensive and hard to maintain. Equivalent Runoff Units ERUs (single family flat rates). The bulk of most communities' parcels of single family residential parcels are Flat Rate residential properties. Impervious Plus Gross Area; Effective Hydraulic Area (EHA) and Intensity of Development (IOD)-based on land use.

CM Gorton asked if all could get copies and Mr. Noel said that he has a pdf file to send out.

Mr. Noel discussed how a fee is calculated using the block method. He also stated that Intensity of Development (IOD) is the only method contested successfully in court.

CM Gorton stated that they would have to go back regularly to update for this method.

Mr. Noel stated yes. There is maintenance for all methods but this one has more intense maintenance requirements than the ERU method. When you flat rate, you're acknowledging the fact that single family properties are the most dynamic properties in the community. There are 2 things attractive about the ERU method 1. You don't have to go through gymnastics to make sure you have the exact # of imperviousness for the parcels; and 2. Unlike today, there wasn't impervious coverage in GIS.

Richard Walker, of Tetra Tech clarified top lot residential v. commercial bottom lot (in slide).

Mr. Noel stated that he didn't mention that 8 or 9 years ago when the first study was done, 2500 sq. ft. ERU was determined based on sampling. Some of the data, there was a random selection of properties single family residential zoned property GIS at that time, and the medium value, was rounded to 2500 sq. ft. for purpose of the study.

CM Stinnett asked if anyone had used a different method between residential and commercial to get the ERU.

Mr. Noel stated that some have. Warren Co. has only 2 flat rates-one for single family residential and one for everybody else. The problem with this is stormwater utilities. There is a lawsuit and the reason for it is demand based v. tax based; people who have been getting service for free, it is a hardship. Almost all, every lawsuit is from non-profits. Courts came up with 3 tests for determining tax v. fee. 1. Regulatory nature to the fee- are you implementing the fee itself by adoption of ordinance that requires everyone to pay the fee? 2. Is there a rational relationship between the service that you are paying for and the way you are collecting? and 3. Voluntary nature (a credit program if people remand stormwater on their own by relieving the community of some of its duties for managing run off). Credits are one of the ways that courts have looked at this.

CM Stinnett said to be clear, we are not looking at square footage of a skyscraper; we are looking at a base footprint only.

Mr. Blevins stated 8 years ago, we had incomplete impervious data for the entire county. Today, we have complete impervious surface data, is that correct? For every parcel property?

Mr. Martin replied yes. He asked Mr. Noel to answer that with a caveat of accuracy of parcels.

Mr. Noel answered that what we have now is an impervious surface coverage based on aerial photos from 2 yrs ago. For every property, there are some gaps. The one thing we have been doing for the last couple of days is looking at ways to interpret data. The biggest problem is parcel lines-registration, not accurate, you get some drift. Some have been fixed but not all. You could wind up with many people coming in complaining about their bills and asking accounting to go out and physically re-calculate their bills instead of using GIS or play games with artificial parcel lines.

Mr. Blevins clarified that he took all of this to mean that 8 years ago, because we didn't have data for the entire county, we want to eliminate 1 part of that problem by saying we'll just wipe out the residential units by saying they're all equivalent that way we reduce our problem down to a much more manageable size. Today though, we have that data, does that open up an option for us to reconsider whether or not to do one size fits all ERU or do we want to do it problematically, understanding that we have some inaccuracies in all that, I would point out that we are going to have that anyway. Even if we do the ERU approach for commercial property we're gonna have all the issues you just described because we have to figure out how many multiples of the 2500 it is. Is it worth opening that back up or are we locked in to one size fits all ERU?

Mr. Noel states that you're not locked into anything.

Mr. Blevins commented that what he meant was from a practical point of view.

Mr. Noel said that that is a timing issue because it depends on how much customer service you want to provide; what we've talked about so far over the last month is the possibility or probability of only dealing with those parcel line issues on those non-residential parcel about 20-25 % of the parcels as opposed to every parcel in the unit.

Mr. Martin said his answer to this is that he would be concerned about the long term administrative overhead of trying to deal with these inaccuracies on all parcels in Fayette County. Mr. Martin continued by saying that he doesn't know if we will ever get to limiting it down to that 25%. It seems to be from an administrative standpoint, in the long term, keep it, a lower cost; it's easier because it has a lower cost to the overall people paying for it.

CM Gorton asked how other communities have dealt with this.

Mr. Noel answered that most communities go the ERU route because of the lack of good data for all impervious surfaces. Ones that we work with have good impervious surfaces for all properties also have pretty accurate parcel lines where the updated parcel line coverages, along with the impervious surfaces not at the same time, but in the same general time frame. For instance, we've been working with Page Co, Illinois, outside of Chicago. That's the process that they want to use-going with the straight impervious areas, with deed accurate parcel lines and brand new impervious coverage and every 2 years re-fly over the county with the cost being for software about \$300,000 every other year.

CM Gorton asked if she could follow-up on 1 thing that Mr. Noel just said. They have decided to re-fly every 2 years to update their impervious surface database, but we are already in our 3rd year so is ours outdated already?

Mr. Martin interjected that he thinks it was late 2006 or early 2007 because it was delivered to us in 2008.

CM Gorton asked if Mr. Martin thought that it was flown in 2006.

Mr. Blevins said that it was 2007.

CM Stinnett said yes, it was 2007.

Mr. Martin restated that it was somewhere between late 2006 and early 2007. He said that he didn't check it himself. He said that they usually fly those things in the winter so they don't get the leaves and all the foliage and stuff and so through 2007 they were working on digitizing it in order to deliver to us in 2008.

CM Gorton said that her only point was that on this little piece is, do we still consider our fly-data accurate to get started.

Mr. Blevins mentioned that it (the data) was inaccurate the day after we flew.

CM Gorton interjected that she knew that.

Mr. Blevins asked if it is practical. Since this is all we got, yeah.

CM Gorton echoed "It's all we got".

Mr. Blevins said that by definition, it's gonna work.

CM Gorton said that it will have to be updated.

Mr. Martin said absolutely. And part of the cost model has long term maintenance to that and there's other benefits in other programs like E911 and Public Safety. So there's actually a chance for us to partner and spread the cost and reduce the cost of doing that. There's always maintenance of it. It is the intensity of the 'on the ground' maintenance aspect, is what I was getting at. My question is, you (Mr. Noel) said it seems the ones who have reconciled their property lines issues are the ones more apt to put more effort into it because they have a higher degree of accuracy-paraphrasing what I thought you said- Do you find this typically in areas where their baseline survey was done off Meridian as opposed to in some Southern states that have more of a means of bounds, in my mind, that has always been kind of inherently questionable as far as the survey methods were done just because of the way the country developed when we first settled?

Mr. Noel stated that he would say that is a pretty fair assumption. Most of the cities and counties who use straight imperviousness are in the North, basically. There are some in the South, large metro areas, like the city of Atlanta.

Mr. Martin said that what he is getting at is, like in Ohio where everything is set up on a township type of thing and everything is in kind of a square. It's easier to reconcile things in older areas.

CM Stinnett said that one other point that Mr. Martin is talking about, is administratively trying to go back and look at every home and every residence that was added in the impervious surface area, etc, is the same problem that PVA has. We see how often in the PVA home values...you can go one street sometimes and see \$50, 000-\$100,000 difference in home values just because they haven't had a chance or the manpower to go back out...look at their budget and what we fund them. So you would have to add almost the same type of staffing to get that point that Mr. Martin is talking about...looking at all those concrete pads, buildings etc., and it's a big undertaking. I would say I wouldn't support that, maybe, but we've got to increase the fee to do that and that is the main thing what we are trying to do here.

Mr. Blevins stated that the only reason why he brought this up is because 8 years ago, they didn't have the option. It wasn't even an option. Today we have the option if we want to take it up. I hear the practical downside to this, but we have the option if we want to do it.

Cheryl Taylor stated that if that's brought up then maybe it feels fair to put it. The other piece though that comes into the fairness that we discussed is, what if you have a bigger impervious area but what if you also have 3x the Greenspace to absorb it. So then you start to get into the fairness in the pervious, you know, what's fair to pay-is it a ratio? And so, it's not an easy question. The data is available for us to do that and if that's what we want to do, it can be done but it's hard.

CM Gorton commented (to Mr. Noel) that he had said that practically every state has had a lawsuit. How about KY?

Mr. Noel said that he knew there was a lawsuit filed in Louisville.

Mr. Martin interjected that Sanitation District 1 in Northern KY and they prevailed.

CM Gorton asked, "They did? And what system do they have, will you remind us?"

Mr. Martin said essentially very similar to what we have here.

CM Gorton asked, "Very similar? And Louisville?"

Mr. Noel said that he didn't think the lawsuit in Louisville was about the rate method. It was against the utility (the rest of sentence is incoherent).

CM Gorton then asked was the Northern KY lawsuit brought by non-profits.

Mr. Martin said that he didn't know. We would have to research the details. Jack Bender could probably give us a briefing because he probably represented them.

CM Gorton then stated that she was just curious; it was not a big deal. She rhetorically asked so Northern KY has basically a similar ERU set up. Do they have 1 rate for all residential.

Mr. Noel stated that he wasn't sure.

Mr. Martin commented that he believes they do because on our slide, they were shown to be slightly higher than what our rate is and he didn't remember picking up a tiered rate approach from them.

CM Gorton then asked about commercial. Do they have the step up depending on the impervious surface?

Mr. Martin then stated that they apply it the same way we are but we'll confirm that...based on my recollection...they have a flat ERU application to it; they have a credit program...we met with them, Cheryl, and I and others did, trying to get some feedback, in hindsight, what they wished they would have done, if they knew then what they know now. We tried to take those things into consideration. What they're reporting to us about the credit program is that it is not being taken advantage of near to the extent that you'd think would be.

Mr. Blevins mentioned that if we consider impervious surfaces as well, that in effect becomes a credit program. If you go ahead and it's built into the structure of the system as opposed to having some sort of agency that checks to see what you're doing, which I like a lot better. So just keep that in mind when we get to the credit discussion.

Comm. Taylor stated that AMEC has a little paragraph to describe it and they say "single family residential charge rate for each parcel having 1 or 2 residential dwelling units, duplex; it's a flat rate fee based on each single family residential parcel equal to 1 equivalent service unit...

CM Gorton said thanks and asked Mr. Noel if he had more.

Mr. Noel stated yes, the discussion of tiers. Residential tiers is a restructure that's used as a way to acknowledge the differences between the different residential parcels; 78,000 single family residential parcels, in Fayette County are not hydrological-some have less imperviousness and some that have more, question is, is it a benefit to the community to reflect those differences through modifications in flat rate or does that just generate more work for the local governments? This is the opinion of a lot of cities taken recently. Other communities that have flat rates are probably 50/50 whether they are tiered or not. Louisville does tier. I don't believe SD 1 does, but I won't swear to it. We've worked with about 75 utilities around the country, before the last 5 years, probably 80% went with tiers; over the last 5 years, they've gone with tiers probably 50/50. Most of the time, the stakeholder groups involved making the decision don't feel like the additional cost on the front end is worth saving somebody a maximum of \$12 on the bill. In most cases, the belief for smaller parcels might be larger but generally what you see is about a \$1 less for

the smaller parcels and \$1 more for the really large ones (referencing slide 18). Mr. Noel continued with mentioning that the specifics of the tier program are to recognize the upper and lower end of imperviousness; the total fraction of fees stays the same. What you try to do with tiers, when you look at all the parcels, particularly when you look at them by land, you should have 20% of your revenue coming from residential imperviousness and 80 % from other types of imperviousness in the community or vice versa or you may have a little bit more coming from residential but you don't want to artificially skew that and change the 20/80 and 75/25; what you want to do is re-allocate within residential. So if you're going to reduce rates for some groups, you'll have to increase by the same total dollar amount somewhere else; so that the zero sum process, you haven't really changed where you actually forced some additional cost onto non-residential or assume some additional costs to residential; So the total amount of revenue stemming from single family doesn't change in the tier process. It can be base or direct measurements of imperviousness; it can say we have 2500 ERU and we're going to reduce the rate for properties with less than 1800 sq. ft of imperviousness and increase for people with properties more than 4500 sq. ft. for single family and push the rates in both directions. You can also do it in some cases in PVA. When you start looking at the square footages of homes and garages, you're starting to add uncertainty to the whole process; with the data you got, you should never consider using the PVA data anyway. You'd be better off to utilize the data you got, turn off the layers that's got the publicly owned sidewalks, that causes part of the problem with registration and parcel lines. So it doesn't get accepted and you can just use that direct measurement. There's a lot of different ways to throw different properties into boxes; some are done based on this upcoming slide that shows a lot of properties that are in the same general size. A lot of times, it just becomes an administrative process of how much effort you want to give to it.

CM Gorton asked a quick question, "the communities that use the tiered residential rates, how often do they update their databases?"

Mr. Noel answered that they usually come up with a process that is part of the general database update process where they are looking at permits and other things. One of the downsides (slide 19) is the maintenance process of it...you are looking at an attribute of a single family residential property that may or may not be managed through the permit process in the local community. So it makes it harder and harder to find somebody has done something to put them in the next bucket, so to speak.

CM Gorton asked if Mr. Noel or anyone else knew from the data what the top end of impervious surface is for our residential, like what is the most that we found and what is the least.

Mr. Noel stated that they have looked at it and could probably provide that information at the next meeting.

Mr. Martin asked "who has the biggest and who has the least?"

CM Gorton answered that she doesn't care who has it but was curious about how many residential properties in Fayette County might be beyond the 4500 sq. ft.

Mr. Noel replied that yes. There are a lot over 10,000 sq. ft.; but you also have to remember that you got properties that can move into single family residential neighborhoods that don't necessarily get a zoning change or a language change in the data; so you will see a neighborhood church in a single family residential but not still zoned a single family residential. You'll see some vacant lots still zoned in a single family residential but in fact, property owner owns 2 adjacent lots and the only thing on one of the lots is the driveway going to the back of the house; so that skews your data because you think this lot is less than 500 sq. ft of imperviousness when in fact maybe the 2 lots should be joined.

CM Gorton stated that that was an interesting point because churches are conditional uses, the underlining zoning remains. So she sees the point that many churches have residential zoning underlining their conditional use.

CM Stinnett asked if we have accounted for that.

Mr. Noel stated that what they have been looking at, what we did was set some threshold levels of imperviousness for the single family residential, for instances, if over 10,000 sq. ft., we push them off into their bucket, so to speak. There are some homes that are in that category with swimming pools and tennis courts, the whole nine yards, would fall into that category. A lot of non-residential uses fall into that also.

CM Gorton asked how churches are listed on our database, residential units if they're in a residential zone.

Mr. Noel answered that some are showing up in the residential parcels.

CM Stinnett then asked how we are going to make that a fairness issue because some churches will pay a lot more than others.

Mr. Noel answered that we will not leave them in there; they will have to be pulled out.

Mr. Martin stated that in the data that we are screening right now, they've got all our GIS data and they are screening that, the litmus test is that 10,000 sq. ft.; we throw it in the bucket and we start manually looking at it...what is this, what's going on here.

CM Gorton then asked if a church is in an underlining residential zone and over 10,000 sq. ft. impervious surface, it would get thrown into a different category. Mr. Martin stated that we'll catch that and refine it.

Mr. Noel stated that what we will typically do to catch that really quickly is take the corresponding PVA data and do a match on all properties, pull out non-profits, etc. There

may be somehow run by churches, just have to deal with it. Sometimes you have to go down the list property by property and figure out the non-profits.

CM Stinnett asked has that been done yet and if we will.

Mr. Noel answered that no, it hasn't been done yet.

Mr. Martin stated that it goes back to what was said earlier that any method chosen, there's always maintenance.

Mr. Noel then discussed the pros and cons of residential tiered rates (slide 19). The benefits are, at least the perception, that there is a more equitable distribution of cost, promotes public acceptance because it shows more detail in the rate structure, somewhat of an improved accuracy in the billing depending on the rate used to group your different tiers of single family residential. The drawbacks, we've talked before, 1. Additional costs for setting this up; it will probably be between \$10,000 and \$25,000 on the front end to setup rate tiered structure; if you go by most methodologies, because of all the back checking that that has to be done on some properties. For this increased cost, there is no increased revenue so it is truly a cost to the program; 2. Software for billing can be complicated; 3. Customer Service goes up; 4. Recently, 2 utilities have said that the effort is not worth it for just a \$12/yr savings.

CM Gorton asked if someone has a pervious driveway would that show up and if they have the pavers that are pervious.

Mr. Noel answered that it depends on what we're calling imperviousness. It's been a big issue around the country. A lot of communities trying to deal with pervious pavers and whether you include that in your pervious calculations and make it eligible for a credit for water quality or if you delete it from the impervious calculations because in a lot of cases the amount of runoff is almost the same as when you get a downpour, the water will be accessing the pervious areas of those pavers; their rate may be higher than what they can infiltrate the waters so you might still get runoff. Just like on a gravel driveway where several cities around the country, the discussion about whether to include gravel parking lots at trucking facilities or other gravel lots are included in impervious or not some include them, while some question it. When you look at it from the water quality standpoint a lot of times, a lot of times when you look at it from an aerial photograph, you see the check marks tracking off from the gravel drives and gravel parking lots where the limestone's been crushed and turned to dust and tracked out and becomes a turbidity or total solid problem for you in your local Stormwater program; so you can't really give a pass if they are creating a problem for you with compliance in your permit.

CM Gorton asked what do they do in Northern KY; does anyone know how they count pervious? We are trying to encourage people to do that.

(Mr. Noel points to a picture and states that that could be the case here where there's a missing driveway, where the driveway didn't get digitized.)

Mr. Noel states that a lot of times you set parameters for your digitizing, because of a lack of accuracy in digitizing information, rhythm type features like sidewalks, if they don't meet some minimum width, we don't digitize them so, if you've got 2-2 ft. wide cracks of concrete, they may not get digitized unless they look like a full driveway and the person doing the digitizing addresses that parcel.

Mr. Martin asked CM Gorton if her question was about Northern KY.

CM Gorton asked Mr. Martin if he knew how Northern KY treats their pervious driveways and surfaces.

Mr. Martin stated that he does not but we can check into that. He also stated that our philosophy is to initiate this discussion on this task force was that we didn't want to discourage residential folk from changing the footprint of their house and we used the neighborhood grant program to help facilitate that as opposed to a credit program because administratively it was a lower cost.

Mr. Noel says that that is just a policy decision that has to be made. One of the reasons why on private residential properties that you might not consider removing pervious pavers from your areas is that you have to maintain all these things in order for them to function properly.

CM Blues asked whatever method is used to set the rates, do other municipalities have appeals processes or boards. CM Gorton, Mr. Martin, and Comm. Taylor all said yes and we will as well. CM Blues asked if we knew which ones are the most effective. Mr. Martin answered no but you almost have to tailor these things to your communities' needs.

Mr. Noel stated that the appeals process, like the pervious issue, must be dealt with because folk who have already done the digitizing with pervious surfaces that can be used in this case, when you look at these aerial photographs without the shaded polygrams on top of it, you can't tell if you're looking at pavers or asphalt so it all got digitized; so somebody's got pervious paper and they think they should get a reduction; they're going to come back to you and say that they do not have that much imperviousness and here's why.

Mr. Martin says that clearly, fundamentally, recognizing from the point of time we have an ordinance in place and the time we actually begin collecting revenue, efforts toward having that appeals process in place is an absolute must.

CM Stinnett (to Comm. Taylor) asked if that was part of the current proposed ordinance from the mayor. Comm. Taylor replied that having an appeals process is in there but not the details. It indicates that there will be an appeals process.

CM Gorton asked if Comm. Taylor would be working through that as it is implemented.

CM Stinnett then asked if Comm. Taylor if she wanted this task force to come up with the details or if she had given it any thought.

Comm. Taylor stated that she thinks there are plenty of examples of appeals processes out there to look at and that she could probably come forth with a couple of recommendations that have been used in other communities but ultimately, we need to make sure that what we put forth is...

Mr. Martin interjected that for us, until we've decided what method of calculation to use, we really can't begin on the appeals process.

Comm. Taylor then said that we can bring some things forward about how things work and what has been kicked around internally. She stated that there has to be a way for people to come forward and ask for a fair treatment on that particular circumstance.

CM Stinnett asked if there was a cost to the appeals process and if so we have put that in the fee and account for that administratively. Comm. Taylor said that she thought so.

Mr. Martin commented that CM James had asked him what Engineering Techs do and If we are going to have to go out and measure stuff; because that's going to be a lot of stuff to do.

Comm. Taylor said that the administrative process will deal with that and that she thinks we're fine.

Mr. Noel began again by showing another slide. He stated that it showed no driveway on one property because it was located on another's property (per the parcel lines). So if you are doing straight imperviousness, one guy is getting billed for 1 ½ driveways.

CM Gorton notes that that would come to the appeals process.

Mr. Noel continues by saying that most people would never know if you go ERU based.

Mr. Martin states that the scary part of this is the inherent problem to deal with property lines; what **happens** if this driveway is on the other guy's property.

Mr. Noel says that another thing that the task force asked for 2 weeks ago was comparisons showing ERU size (slide 25). This basically shows the different ERU size within KY. They're all fairly close to the 2500. The one thing that he cautions when comparing other people's rates is that they don't have the same level of services necessarily that you are proposing or they may have the same level of services but a more mature program.

Mr. Martin asked if Mr. Noel knew if any others listed had a Stormwater oriented consent decree.

Mr. Noel, CM Gorton, and Mr. Blevins all stated nobody.

Mr. Martin said that Durham has a consent decree but he doesn't know if it is Sanitary, Stormwater, or combined sewers. Mr. Noel said that Ft. Wayne has a consent decree but it is combined. Mr. Martin then said that Northern KY and Louisville are because of combined sewers.

Mr. Noel states that Durham is one of the cities where their utilities were shut down by the courts temporarily-it was not because of the rate structure but the level of service.

Mr. Blevins asked if the data that we captured with our fly-over from almost 2 yrs ago, can be used for pervious surface calculations as well. Mr. Noel answered for the fly-over yes but you will have to use the parcel lines. The other option you got is to go to the tax files and the acreage should be accurate and you could subtract the square footage of the acreage of the impervious that you digitized from the total acreage of the lots to come up with the (incoherent) graph of the pervious area.

CM Stinnett asked if there was another home that would show the non-residential amount that composes their total fee. This could be misleading in coming up with their billing fee. Mr. Noel said that he doesn't have it but could get it.

CM Stinnett stated that he doesn't want this fee to end up like the garbage tax with 20% of the people paying 80% of the bill. That's the last thing that we want to develop again in the community. CM Stinnett asked if all the non-residential were paying the bill in most of these cases...CM Gorton added 'the biggest pervious areas'? Mr. Noel answered that they are probably paying more than 50%. Comm. Taylor added that it is closer to 70%. Mr. Noel said 'but not more than 80%.

Mr. Noel said that what you have with a lot of communities is such a difference between total # of parcels in a non-residential and residential area. You almost end up 50/50 or 40/60 somewhere in that range because of so many 1 ERU properties out there; a lot of your non-residential properties, close to ¼ acres, like 7-11 or gas station multi parcel; strip malls where there's a large # of rate payers on 1 piece of property.

CM Stinnett stated that that also plays into any credits or incentives we give them on the non-residential side because we are talking about not doing any on the residential; also asked if we could have those #s for the other cities when we get to credits and incentives. Mr. Noel and CM Gorton said that we can get that.

Mr. Blevins stated that he came into this meeting expecting to hear that ERUs were pretty much the only thing we can do; but that he has probably moved off that position. This is why: Using the total lot size, especially for the larger pieces of property, and then somehow balancing the idea that some have a large pervious surface with their impervious surface that seems like a programmatic way in which we can implement, at least part of, our credit program and this I like so I want to keep that on the table as a possibility. Putting that aside for a second, the ERUs seems to me, at least for the

residential side, is the only practical way we are going to be able to go about this and we are a 'meets and bounds' community, I can confirm that now. Even though we have the fly-over data now, from a practical point of view, we're not going to be able to do much better than what we have, so at least for the residential aspects. I think that we are forced to do ERU and really have no choice. Now, on today's particular motion, I would be in support of tabling soon as I make it because you may want time to think about it. Also, I want to point out to the public that we are also able to reverse ourselves. **MOTION:** for the purposes of calculating the fee, for residential and commercial property, we use the recommended proposal from the mayor of 2500 sq. ft. for each as the assumptive size ERU and for all residential property in the property in proposed ordinance and for duplexes, we go ahead and use the ERU approach.

CM Blues **SECONDED** then began a discussion asking how advancing technology might be a factor in our discussion here. CM Gorton stated that that was an interesting question but that she didn't have an answer for it.

Mr. Martin said that he suspect that the technology is available but not to people like us.

Mr. O'Mara stated that the use of technology to see what is pervious and impervious is only half of the tech challenge; the other challenge is plot marks. He goes ahead to say that when you have the discussion of technology and capacity, you have to marry those 2 together to have an effective program.

Mr. Blevins adds that even if the fly-over technology is perfect, we still have the meet and bounds problem; he doesn't see that changing.

Comm. Taylor commented that there is a subtle piece that needs to be added to this; you still have a field inspection component because pervious pavement breaks equal unless it's maintained; it's no longer pervious.

CM Blues added that that issue might overwhelm an appeals board or committee.

Mr. Blevins added that he thought if we try to use the actual sq. ft. of impervious surface for residential property, it would overwhelm us and turn to appeals problems. This is just not practical. So it eliminates 75% of parcels right off the top by essentially doing a bum rush single flat-rate approach; I think this is our only option.

CM Gorton interjected that this is for the residential.

Mr. Blevins continued by saying that he came in today thinking that he might want a tiered approach but for \$5/yr difference, it is not worth the administrative overhead that we'll have.

CM Gorton stated that she was of the same thinking, that the tiered approach would help people and separate it out but it sounds like a lot of maintenance work for a very small payback to the residents.

CM Stinnett asked if we looked at the non-residential...1 ERU per residential and 1 for non-residential so everyone uses it the same.

Mr. Noel stated that the cities that go the ERU route are looking at the total cost of service for their Stormwater Management program; they choose 2500 sq. ft. as a representative billing block.

CM Gorton asked (of CM Stinnett) were you thinking 1 ERU for residential and 1 ERU for every single commercial as opposed to figuring out commercial increments.

CM Stinnett answered right, right. Some commercial properties have a lot better stormwater retention and control measures in place than do residential. Some commercial properties with rain guards may be contributing more than residential units.

Mr. Martin states that where this gets problematic, because you want to incentivize people to do the right thing and particularly the greater impact on the commercial site. This was talked about the last time; commercial sites still contribute a larger volume than they did before and it does have an impact to the down stream because of that large volume and prolonged discharge that comes out of it and then secondly, up until recently, alot of them haven't dealt with the water quality standpoint of it at all. In order to be able to really equate that with what we're doing here, I think those components have to be further evaluated or developed. I guess the other part of it, I'm looking at Ed (Gardner) on this, having different sq. ft values that need 1 ERU for 1 group v. another group, may be leaving yourself open for legal challenge.

CM Gorton asked Mr. Blevins to repeat the motion from above. He did and added at the end "reserving the right to change our method. Motion PASSED unanimously.

CM Gorton asked Mr. Martin about starting the expense discussion. Mr. Martin stated that he didn't think that it could be started and finished at this meeting. However, he does have other issues that could be discussed.

CM Stinnett asked if the task force could go over the next meeting and what will be covered so everyone knows.

Mr. Blevins said that the discussion for the next meeting (1/22/09) will be expense and credit/incentive program. He then asked Mr. O'Mara if the revenue side will be discussed. For example, answers to some of the questions that CM Stinnett asked.

Mr. Martin said that he had done an armchair calculation of the percentage breakdown between residential and non-residential but that it could be developed.

Mr. O'Mara said that he could bring that forward.

CM Stinnett also added that Mr. O'Mara needed to bring back the amount from the general fund that will be taken out expenditure wise and putting toward the fee, i.e., street cleaning, leaf pickup...

Mr. Blevins added that not all of the above mentioned was general fund some are urban services area.

Mr. Martin stated that doing what is wanted as far as the revenue picture on residential v. other properties, can be done similar to what was done with the sanitary sewer fee, as far as still developing the costs that are coming from street sweeping and particularly the leaf collection, wasn't something we considered early on and may not have that ready for this week. (to CM Gorton) after our discussion on Monday, I sent out my feelers to get that data since leaf collection is not in urban service area, it's going to be difficult to find that.

CM Gorton asked if it was tied to the garbage fee.

CM Stinnett replied that not all of it. Some of it is in the general fund.

Mr. Martin stated that he did not want to rush and get the information and it is wrong.

CM Gorton said that she didn't want him to rush either but that it needed to be on the table for discussion because leaf pickup is critical to the stormwater piece; she reminded everyone that CM Stinnett brought up the fact that if we're going to have street sweeping for Fayette Co, then can we eliminate that tax, that is on the books now, tied to the dedicated tax and then CM Gorton asked when would it be appropriate to bring in the neighborhoods like Wellington and Colony Four, who already pay some stormwater fee.

Mr. Martin said that he recommended another week. CM Gorton said ok, in 2 weeks.

CM Blues then asked if he was to assume that the since there had been a discussion of the possibility of eliminating certain taxes on the books now there has to be considered start-up costs in that. There will be big expenses on the front end.

CM Gorton said that this discussion would probably take most of the meeting-revenue and expenses.

Mr. Blevins then asked if current debt service included in the model and Mr. Martin said yes and that he had that information.

Mr. Blevins stated that for everybody's sake the street sweeping issue needs to be carefully thought about right now because it is limited to those who pay that particular garbage tax and when we change this, everyone in town will want it. I may have said street sweeping but I mean leaf pickup. So, on 1/22, we will be focusing in the expense and income accounting side of things which pushes our general decisions meeting item to the following week. General decisions were the miscellaneous questions we weren't sure how to lump them. Following that will be the credit program; revenue is separate, maybe

it can be deferred until the end, retracting what was said about the revenue discussion for next week. We will focus on expenses.

Mr. Martin reminded the task force members that tab 2 of the book that he handed out at the 1st meeting has some general estimate of what we knew at that time of what would be saved in the general fund and urban services are. He also mentioned that there is a proposed ordinance coming referencing maintenance of retention/detention basins. In the performance standards of the consent decree, this is an enforceable component of the consent decree, by 1/31/09 developed and proposed, there has to be an ordinance sent to Council requiring proper maintenance, cleaning, and repairing of privately owned stormwater control structures which are required under approved plans or ordinances. This discussion is going to escalate quite a bit based on what we end up proposing.

It was asked of Mr. Gardner if this was only for consideration and discussion but not any action and he said that was correct.

CM Gorton thanked Mr. Blevins for staying on this committee and thanked all for committing to a weekly meeting. The next 2 meetings will be at the Public Library in the basement.

VI.

Van Meter Pettit of Town Branch Trail spoke. He asked if the ERU going to be applied based upon the urban services area and how is the agricultural land being dealt with.

CM Gorton answered that each rural parcel is counted as 1 residential unit under the proposal by the mayor.

Mr. Pettit stated that a huge percentage of our impervious service areas is roadways and yet they don't have ownership parcel identity, is it an assumption of this model that all parcel owners are footing the bill for public right of ways and if so, is there a particular aspect of the fee process that will alleviate some of the costs for our least fortunate homeowners.

CM Gorton answered that she knows that roadways have always been considered part of our stormwater system.

Mr. Martin stated that it will be recommended that they be exempt.

Mr. Blevins asked if this could be discussed in 2 weeks.

John Cobb of Rainscape spoke. He stated that in Philly they surveyed their own properties including streets and roads and all municipal uses and found 45 % of impervious surface.

CM Gorton stated that in the current proposal, all government buildings will be assessed. Mr. Martin added 'just the streets'. CM Stinnett added 'state and local'. CM Gorton added 'and parking lots'.

Mr. Cobb stated that some municipalities itemize the stormwater bill into the on-site and off-site percentage of the fee so how much they're supporting (?) storm water treatment system and that, it was also part of the basis of the credits. Last week there was talk about flooding and Comm. Taylor said that our consent decree is focused on quality-two issues- flooding and storm water quantity.

Mr. Pettit stated that he noticed that the KPDES permit did not set any numerical values for pollutant reduction. He is interested in how the divisions propose to use the fee to specifically address the KPDES permit.

Mr. Martin told him that he didn't want to miss next week then. He said that he feels that they are proposing an expense model that is well thought out to take care of the measurable goals that are attached to that permit. This is a water quality and water quantity based fee.

Mr. Blevins stated that he recognizes that there will not be reduction amounts in that permit but there are limits that we have to meet but that's the whole reason we are being sued by the EPA, we exceeded limits in certain situations in our streams.

Mr. Martin answered not necessarily; we have impaired streams that don't meet their designated usage. We did not implement a stormwater program phase 1 consistent with what is required by the federal register.

Comm. Taylor stated that the assumption is by having a programmatic system in place that you are improving water quality but they have not put limits on us yet.

William Smith, 213 Bluegrass Ave, spoke. He asked if the task force was talking about sidewalks and storm sewers. He stated that over 30 yrs ago the city put a sewer line in the Highlands subdivision and they were charged \$2100. It was said that they would have full service and 30 years later, they still do not have full service; but now the citizens are going to pay for stormwater to run on our property?

Mr. Martin asked Mr. Smith to give his name and phone # to Mr. Darryl Bennett and he would try to find some answers for him.

This meeting was adjourned at 11:02 am.

Storm Water Fee Task Force

Meeting #3

ERU Approach Validation

January 15, 2009

amec Doug Noel

Discussion Content

- Rate methods
- Residential rate tiers
- Rate comparisons

1/15/2009

Filename and location

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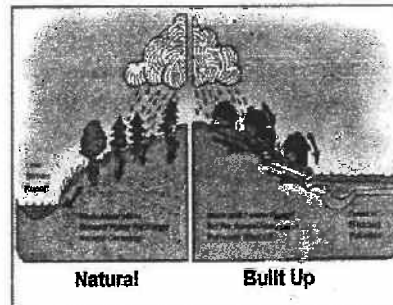
Rate Methods

1/15/2009

Filename and location

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Impact of development on runoff



1/15/2009

Filename and location

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Imperviousness as a rate method

- Imperviousness is utilized in hydrology as the measuring stick for intensity of development
- Multiple ways to address in fee calculations:
 - ◊ Straight imperviousness (actual or incremental blocks)
 - ◊ Equivalent Runoff Units, ERUs (single family flat rate)
 - ◊ Impervious plus gross area
 - ◊ Effective hydraulic area
 - ◊ Intensity of development
- Each method has pros and cons

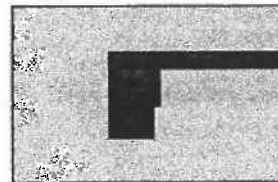
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Rate methods

Impervious Area



- Imperviousness is the only physical parameter per parcel
- Direct correlation to runoff and thus to demand
- Easily measured and verified
- Can set minimum threshold for billing

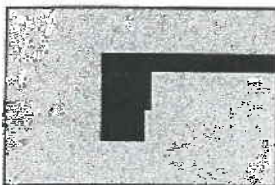
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Rate methods

Impervious Area – Flat Rates



- Imperviousness is the only physical parameter per parcel
- Direct correlation to runoff and thus to demand
- Single family residential properties represented by flat rate (equivalent residential unit, or ERU)
- Reduces effort for master account file
- Can set minimum threshold for billing

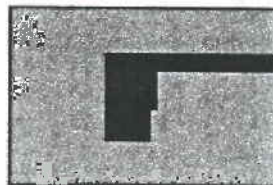
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Rate methods

Impervious Plus Gross Area



- Compound rate structure
 - ◆ Imperviousness for development
 - ◆ Gross area component for entire property
- Can apply some administrative costs to undeveloped properties
- Requires two data elements per parcel

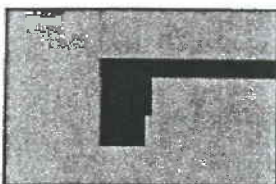
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Rate methods

Effective Hydraulic Area (EHA)



- Utilizes hydrologic analysis to compute runoff potential of all parcels
 - ◆ Impervious area factor
 - ◆ Pervious area factor
 - ◆ Assumed soil type
 - ◆ Assumed saturation
- Directly compute billing units per parcel

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Rate methods

Intensity of Development (IOD)



Land Use

Parking
Commercial
Institutional
Multi-Family
Single Family – small lot
Single Family – large lot
Vacant

- Utilizes the average runoff potential for all parcels of the same land use
 - ◆ Land use
 - ◆ Gross area
 - ◆ IOD factor
- Directly compute billing units per parcel
- Can greatly reduce cost of master account file development
- Highly error prone

1/15/2009

Filename and location

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How a fee is calculated

- The following examples assume:
 - ◆ 10,000 square foot lots
 - ◆ ERU = 2,500 square feet of impervious area
 - ◆ All single family, duplex and horse farms are to be billed 1.0 ERU

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How a fee is calculated

Impervious Area - Block Method



= 2,000 sq ft impervious
= Four (4) 500 square foot blocks



= 10,000 sq ft impervious
= Twenty (20) 500 square foot blocks, less credit

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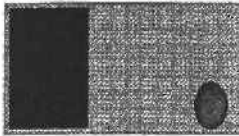
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How a fee is calculated

Impervious Area - ERU Method



= 2,000 sq ft impervious
= 1 ERU (flat rate)



= 10,000 sq ft impervious
= 4 ERUs, less credit

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Residential Tiers

1/15/2009

Filename and location

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Tiered Residential Rates

Tiered residential rate structures are sometimes used as a means of acknowledging that differences may exist in the impervious characteristics of single family properties.

- **Specifics:**

- ✦ Recognizes upper and lower end of residential imperviousness
- ✦ Total fraction of fees from single family does not change
- ✦ Tiers can be based on:
 - ✓ direct measurement
 - ✓ PVA information
 - ✓ correlation to other parameters

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Tiered Residential Rates

- **Benefits:**

- ✦ More equitable distribution of cost
- ✦ Improved accuracy of billing
- ✦ Promotes public acceptance

- **Drawbacks:**

- ✦ Additional set-up costs
- ✦ No increased revenue for the increase in cost
- ✦ Maintenance goes up
- ✦ More complicated for billing software
- ✦ Customer service needs go up
- ✦ Disgruntled ratepayers among properties near cutoff points
- ✦ Effort can seem hard to justify to save a ratepayer \$12 / year

1/15/2009

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Rate Comparisons

1/15/2009

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Determining the rate

- Determine level of service to be provided
- Develop a business plan that delivers the identified level of service
- Determine the cost of providing the identified level of service
- Determine the rate basis (i.e.; ERU)
- Determine the total number of billing units in the rate base
- Divide the cost of service by the number of billing units

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Stormwater utility fee examples

Municipality / County	Population	ERU Size	Billing Rate per ERU
Louisville	702,000	2,500	\$5.02
Rapid City	22,000	2,500	\$4.50
LFUCS	279,000	2,500	\$4.16
Warren County	104,000	NA	\$4.00
Northern Kentucky	335,000	3,500	\$4.30
Raleigh NC	276,000	2,250	\$4.00
Fort Wayne IN	208,000	2,500	\$3.65
Durham NC	187,000	2,400	\$4.50
Toledo OH	313,000	2,500	\$3.15

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